

REMARKS/ARGUMENTS

Claims 1-27 are pending.

Claims 1 is amended to clarify that the receptacle is for receiving in a motor vehicle drink holder. Also, the means is clarified as contacting the bottom of the receptacle. Support is found in Figs. 1 and 2.

Claims 8 and 10 are amended to clarify that the receptacle or container, respectively, is for receiving in a motor vehicle drink holder, and the prongs are in contact with the bottom.

Claims 12-17 are amended to clarify that the supporting means is connected to the bottom of the receptacle.

Claims 6 and 9 are amended to clarify that the ring has a groove. These amendments address the rejection of claims 18-21 and 24-27 as lacking an antecedent basis for the claimed grooves.

Rejection under 35 U.S.C. § 102

The rejection of claims 1, 4-7 and 12 as anticipated by U.S. Patents No. 5,947,322 to Ho. "To anticipate a claim, the reference must teach every element of the claim." MPEP § 2131. In the present case, the reference fails to achieve this standard.

As amended, claims 1, 4-7 and 12 call for a receptacle for receiving in a motor vehicle drink holder, with means contacting the bottom of the receptacle for supporting plant stems. In contrast, Ho does not describe any means contacting the bottom of the receptacle, as called for in the amended claims. Rather, Ho only teaches the bottom of the receptacle itself. Because all claim elements are not taught by Ho, claims 1, 4-7 and 12 are not anticipated.

Furthermore, Ho describes a container that is attached to a car by a hanger 3. The container has a groove 12 and a slot 14 that engage the hanger for mounting on a wall. Thus, the Ho container is for mounting on a hanger, not for receiving in a motor vehicle cup holder. As pointed out in the current specification at paragraphs [0004] and [0005], a hanger or bracket is different from the motor vehicle receptacle containers known as motor vehicle drink holders that are typically found in motor vehicles. Because Ho fails to describe a receptacle for receiving in a motor vehicle drink holder, all claim elements are not taught. Accordingly, claims 1, 4-7 and 12 are not anticipated by this reference.

Moreover, the container in the Ho reference slides onto the hanger. In contrast, claims 1, 4-7 and 12 call for a receptacle for receiving in a motor vehicle drink holder. Again, Ho fails to teach all claim elements.

The Ho reference fails to teach or suggest all claim elements. Accordingly, claims 1, 4-7 and 12 are not anticipated.

Rejections under 35 U.S.C. § 103

The rejection of claims 2, 8, 9, 13, 15, 22 and 23 as obvious over Ho in view of U.S. Patent No. 3,477,175 to Sakamoto is respectfully traversed. To establish a *prima facie* case of obviousness, there must be some reason to modify the references or to combine reference teachings.

According to the Office Action, the combination of Ho's container and the prongs taught by Sakamoto would be obvious. However, Ho teaches that flowers in the container are already supported by a tray 2 with holes, as shown in Fig. 5. Because the container already has support for flowers, there is no reason to add a second, redundant device to support flowers, such as the set of prongs described by Sakamoto.

Moreover, Ho teaches that his container doubles as a cup, garbage container, ash tray or pen holder (see Abstract and figures). These additional uses further discourage or teach away from the combination of the Ho and Sakamoto references. A cup would be unlikely to have a set of prongs connected to the container bottom since a cup with prongs would be aesthetically unappealing and potentially dangerous to a drinker. A garbage container or ash tray would be unlikely to have a set of prongs connected to the container bottom since pieces of garbage or ash would catch between the prongs, making it difficult to keep the container fresh and clean. As for a pen holder, Ho teaches that the tray 2 already provides support for pens, as shown in Fig. 4. Thus, the combination of the Ho container with another support for pens (a set of prongs) would be discouraged.

Nothing suggests combining the Ho and Sakamoto references. Indeed, the teaching of the references actually discourage and teach away from any combination. Therefore, claims 2, 8, 9, 13, 15, 22 and 23 are not obvious.

The rejection of claim 22 as obvious over Ho and Sakamoto, and further in view of U.S. Patent No. 2,057,856 to Stone is respectfully traversed. According to the Office Action, the combination of the receptacle and prongs taught by Ho and Sakamoto, combined with the permanently connected device taught by Stone, would be obvious. As pointed out above, there is no reason to combine the container of Ho, which already has a tray for supporting flowers, and a second, redundant device for supporting flowers. Also, as pointed out above, the references teach away from the combination of Ho and Sakamoto. Moreover, similar to the prongs described by Sakamoto, there is no reason to combine the Ho container with the cage-like, permanently connected support 10 described by Stone. As such, claim 22 is not obvious.

The rejection of claims 3, 12 and 16 as obvious over Ho and Stone is respectfully traversed. According to the Office Action, it would be obvious to combine the container of Ho with the cage-like structure of Stone. As noted in the analysis of claim 22 above, there is no reason to combine the Ho container, which already has a tray for supporting flowers, with a second flower supporting device such as the cage-like support 10 described by Stone. Therefore, claims 3, 12 and 16 are not obvious.

The rejection of claim 17 as obvious over Ho and Stone, and further in view of either Sakamoto or U.S. Patent No. 1,633,184 to Luipersbek, is respectfully traversed. According to

the Office Action, it would be obvious to combine the Ho container with a second flower supporting device, whether a permanent device such as the cage-like support 10 described by Stone or a removable device such as that of Sakamoto or Luipersbek. Again, there is no reason to combine the Ho container, which already has a flower supporting device, with a second, redundant device. Accordingly, claim 17 is not obvious.

The rejection of claims 18, 21, 24 and 27 as obvious over Ho and Sakamoto in view of U.S. Patent No. 5,477,640 to Holtkamp is respectfully traversed. According to the Office Action it would be obvious to combine the "ring" of Holtkamp with the container of Ho and prongs of Sakamoto. As noted above, the combination of the Ho and Sakamoto references is not obvious since nothing suggests adding a set of flower-supporting prongs to a container that already has a support for flowers, and the references teach away from the combination of Ho and Sakamoto.

Moreover, Holtkamp does not teach the type of ring called for in the claims. Holtkamp teaches a cartridge 12 placed around a receptacle 26. In contrast, claims 18, 21, 24 and 27 call for a ring positioned in the receptacle. Because modifying the cartridge of Holtkamp to fit inside the receptacle would completely alter the basic structure of the cartridge, there is no reason to combine Holtkamp with the other references. As such, the claims are not obvious.

The rejection of claims 19, 20, 25 and 26 as obvious over Ho and Sakamoto in view of U.S. Patent No. 6,516,563 to Matthews is respectfully traversed. According to the Office Action, combining the detachable ring of Matthews with the container taught by a combination of Ho and Sakamoto would be obvious. As noted above, the combination of the Ho and Sakamoto references is not obvious since nothing suggests adding a set of flower-supporting prongs to a container that already has a support for flowers, and the references teach away from the combination of Ho and Sakamoto.

Moreover, Matthews describes a ring 24 for holding plants or planting medium (column 4, lines 56-59). Thus, Matthews teaches a ring for growing and providing nutrients to live plants. In contrast, Ho teaches a container for use with cut flowers. Because Ho is concerned with dead flowers while Matthews is concerned with providing nutrients to live plants, there is no reason to combine the Ho container with the Matthews ring. As such, claims 19, 20, 25 and 26 are not obvious.

The rejection of claims 10 and 11 as obvious over Ho in view of Sakamoto is respectfully traversed. As amended, the claims call for supporting plant parts via prongs at the bottom of a container, where the container is received in a motor vehicle drink holder. As pointed out above, the combination of the Ho and Sakamoto references is not obvious since nothing suggests adding a set of flower-supporting prongs to a container that already has a support for flowers. Moreover, neither reference teaches or suggests a container received in a motor vehicle drink holder. Further, the references teach away from the combination of Ho and Sakamoto. Because there is no reason to combine the references, claims 10 and 11 are not obvious.

In view of the foregoing amendments and remarks, Applicants submit that the present application is in condition for allowance. A Notice of Allowance is therefore respectfully requested.

Applicant is submitting a Request for Continued Examination, and a Petition and fees for a five month extension of time.

No other fees are believed due. However, the Commissioner is hereby authorized to charge payment of any fees required in connection with this communication or credit any overpayment to Deposit Account No. 50-0337. A duplicate copy of this paper is enclosed.

Dated: 9-28-07

Respectfully submitted,



Miles Yamanaka
Reg. No. 45,665

FULBRIGHT & JAWORSKI L.L.P.
555 South Flower Street , 41st Floor
Los Angeles, CA 90071
(213) 892-9200 – Telephone
(213) 892-9494 – Facsimile